

## REAL ESTATE SALES CONTRACT

STATE OF TEXAS

COUNTY OF COLLIN

THIS REAL ESTATE SALES CONTRACT (this "Contract") is made by and between **ROBERT H. WIER and TAMARA J. WIER** ("Seller"), of 1525 Gloryview Road, Frisco, Texas 75034, and the **FRISCO COMMUNITY DEVELOPMENT CORPORATION** ("Purchaser"), 6891 Main Street, Frisco, Texas 75034, upon the terms and conditions set forth herein.

### ARTICLE I.

1.01. Seller hereby sells and agrees to convey by Special Warranty Deed (the "Deed"), and Purchaser hereby purchases and agrees to pay for, that certain real estate, and any improvements located thereon, being approximately 5.007 acres of land located in the M.E.P. and P.R.R. Company No. 5 Survey, Abstract No. 941 in the City of Frisco, Denton County, Texas, as more specifically described in the attached Exhibit A (the "Property"), and locally known as 1525 Gloryview Road, Frisco, Texas.

Seller also sells and agrees to convey, and Purchaser hereby agrees to pay for, all and singular, the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, roads, alleys or rights-of-way, and including any right, title and interest of Seller in all oil, gas and other minerals, together with any improvements, fixtures, and personal property situated on and attached to the property, (all of such real property, rights, and appurtenances being hereinafter collectively referred to as the "Property"), for the consideration and upon the terms and conditions hereinafter set forth.

## ARTICLE II.

### PURCHASE PRICE

#### Amount of Purchase Price

2.01. The purchase price (herein called the "Purchase Price") for said Property shall be the sum of SEVEN HUNDRED TWENTY FIVE THOUSAND AND NO/100 DOLLARS (\$725,000.00).

#### Payment of Purchase Price

2.02. The Purchase Price shall be payable in all cash at closing.

## ARTICLE III.

### PURCHASER'S OBLIGATIONS

#### Conditions to Purchaser's Obligations

3.01. The obligation of Purchaser hereunder to consummate the transaction contemplated hereby is subject to the satisfaction of each of the following conditions (any of which may be waived in whole or in part by Purchaser at or prior to the closing).

#### Preliminary Title Commitment

3.02. Within twenty (20) days after the execution date of this Contract, Seller, at Seller's sole cost and expense, shall have caused LandAmerica Wilson Title Company (G. Randal Hullett), 1700 Redbud Blvd., Suite 300, McKinney, Texas 75069 (the "Title Company") to issue a preliminary title commitment (the "Title Commitment"), accompanied by true, correct and legible copies of all recorded documents relating to easements, rights-of-way, and any instruments referred to in the Title Commitment as constituting exceptions or restrictions upon the title of Seller.

### Survey

3.03. Within twenty (20) days after the execution of this Contract, Seller shall, at Seller's sole cost and expense, cause to be delivered to Purchaser a current plat of survey ("Survey") of the Property, prepared by a licensed Texas surveyor acceptable to the Purchaser. The Survey shall be in a form acceptable to the Title Company in order to allow the Title Company to delete the survey exception at the Purchaser's expense (except as to "shortages in area") from the Owner's Title Policy to be issued by the Title Company, and shall be certified to the Purchaser and the title company. The Survey shall comply with the requirements of the Texas Surveyor's Association for a Category 1A Condition II Survey and shall contain a certificate and such other information as Purchaser may reasonably request. The Survey shall be staked on the ground, and the plat shall show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, flood plain as defined by the Federal Insurance Administration, easements, and rights-of-way on or adjacent to the Property and shall set forth the number of total number of acres and square feet comprising the Property.

### Review Period

3.04. Purchaser shall have ten (10) days (the "Review Period") after Purchaser's receipt of the later of the Survey, Title Commitment and Title Documents to review same and to deliver in writing to Seller such objections as Purchaser may have to anything contained in them (the "Objection Notice"), and in the event Purchaser states that the condition is not satisfactory, Seller shall promptly undertake to eliminate or modify all such unacceptable matters to the reasonable satisfaction of Purchaser, but shall be under no obligation to incur any cost in so doing. Purchaser hereby agrees that zoning ordinances, the lien for current taxes, restrictive covenants affecting the Property and any items not objected to timely by Purchaser shall hereinafter be

deemed to be permitted exceptions (the "Permitted Exceptions") and Purchaser shall not be entitled to object to the status of title, the survey or avoid the Closing on account of such permitted exceptions. In the event Seller is unable or unwilling to cure any objections contained in the Objection Notice within ten (10) days after receipt of same, Purchaser may, by written notice delivered within five (5) days thereafter, terminate this Contract and the Escrow Deposit shall be forthwith returned by the Title Company to Purchaser.

#### Feasibility Period

3.05. Purchaser shall have a period of thirty (30) calendar days commencing on the effective date of this Contract within which to inspect the Property and determine if the same is suitable for Purchaser's intended use (the "Feasibility Period"). In connection therewith, Seller agrees that within ten (10) days of the Effective Date hereof, Seller shall provide Purchaser, to the extent they exist and are in Seller's possession, with all engineering reports and environmental reports pertaining to any part or all of the Property. In the event Purchaser notifies Seller in writing on or before 5:00 p.m. on the last day of the Feasibility Period that Purchaser disapproves or is dissatisfied in any way with the Property, such determination to be made in Purchaser's sole and absolute discretion, then this Contract shall terminate and all earnest money heretofore delivered by Purchaser to Title Company, save and except the sum of \$100.00 which shall be considered non-refundable option money, shall be returned to Purchaser. In the event Purchaser fails to so notify Seller in writing prior to the expiration of the Feasibility Period of Purchaser's election to terminate this Contract, this Contract shall continue in full force and effect. Seller hereby grants to Purchaser during the Feasibility Period the right to enter upon the Property and conduct such tests as Purchaser deems necessary; provided, that Purchaser shall indemnify and hold harmless Seller from all claims, actions or causes of action which might

occur by virtue of Purchaser's entry upon or testing of the Property and provided further that Purchaser shall be responsible for all damages occasioned to the Property arising out of Purchaser's occupation.

#### Environmental Study

3.06. This Contract is contingent upon the Purchaser obtaining an environmental report, at the expense of Purchaser, that indicates no environmental problems with the Property, and is otherwise acceptable to the Purchaser. In the event an acceptable environmental report is not obtained by the Purchaser as provided herein, the Purchaser shall have the right to terminate this Contract prior to expiration of the Feasibility Period by written notice to the Seller and the Escrow Deposit shall be returned by the Title Company to the Purchaser.

#### Approval by City Council

3.07. This Contract is contingent upon approval by the City Council for the Purchaser. The Purchaser shall seek such approval prior to the expiration of the Feasibility Period.

#### Lease Agreement

3.08. This Contract is contingent upon the parties executing a lease agreement at closing (the "Lease Agreement"), whereby the Purchaser shall lease the Property to the Seller for a period of two (2) years. The Seller shall be obligated to pay all utilities and shall be responsible for the maintenance of the facility during the lease term, including keeping the Property free from any environmental contamination. The Purchaser shall be responsible for any structural or foundation repairs.

## ARTICLE IV.

### CLOSING

4.01. The Closing shall be at the offices of the Title Company, thirty (30) days following the expiration of the Feasibility Period (which date is herein referred to as the "Closing Date").

4.02. At the closing, Seller shall:

(a) Deliver to Purchaser a duly executed and acknowledged Special Warranty Deed conveying good and indefeasible title in fee simple to all of the Property, free and clear of any and all liens, encumbrances, conditions, easements, assessments, and restrictions, except for the following:

- (1) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (2) Any exceptions approved or waived by Purchaser pursuant to this Contract; and
- (3) Any exceptions approved by Purchaser in writing.

(b) Deliver to Purchaser, at Seller's sole cost and expense, a Texas Owner's Title Policy issued by the Title Company, in Purchaser's favor in the full amount of the Purchase Price, insuring Purchaser's fee simple title to the Property, subject only to those title exceptions listed in this Contract, such other exceptions as may be approved in writing by Purchaser or waived by Purchaser, and the standard printed exceptions contained in the usual form of Texas Owner's Title Policy containing a survey exception deletion, at the expense of the Purchaser, except as to shortages in area.

(c) Deliver to Purchaser the Lease Agreement.

4.03. At the Closing, Purchaser shall deliver to Seller the cash portion of the Purchase Price and the Lease Agreement.

4.04. All state, county, and municipal taxes for the then current year relating to the Property, if any, shall be prorated as of the Closing Date. Purchaser shall be responsible for any "rollback taxes" that maybe assessed to the Property.

#### **NOTICE REGARDING POSSIBLE LIABILITY FOR ADDITIONAL TAXES**

If for the current ad valorem tax year the taxable value of the land that is the subject of this contract is determined by a special appraisal method that allows for appraisal of the land at less than its market value, the person to whom the land is transferred may not be allowed to qualify the land for that special appraisal in a subsequent tax year and the land may then be appraised at its full market value. In addition, the transfer of the land or a subsequent change in the use of the land may result in the imposition of an additional tax plus interest as a penalty for the transfer or the change in the use of the land. The taxable value of the land and the applicable method of appraisal for the current tax year is public information and may be obtained from the tax appraisal district established for the county in which the land is located.

4.05. Each party shall pay any attorney's fees incurred by such party. All other costs and expenses of closing the sale and purchase shall be borne and paid as provided in this Contract, or if the Contract is silent, as is usual and customary for real estate transactions in Collin County, Texas.

#### **ARTICLE V.**

##### **REAL ESTATE COMMISSIONS**

5.01. It is expressly understood and agreed that no brokers have been involved in the negotiation and execution of this Contract.

## **ARTICLE VI.**

### **ESCROW DEPOSIT**

6.01. Upon the full execution of this Contract and for the purpose of securing the performance of Purchaser under the terms and provisions of this Contract, Purchaser shall deliver to the Title Company, a check in the amount of \$1,000.00 as the Escrow Deposit which shall apply toward the Purchase Price at closing. Notwithstanding anything to the contrary herein, \$100.00 of the Escrow Deposit shall be non-refundable and shall constitute independent consideration for Seller's performance under this Contract.

## **ARTICLE VII.**

### **CASUALTY**

7.01. All risks of loss to the Property shall remain upon Seller prior to the Closing. If, prior to the Closing, the improvement or improvements on the Property shall be damaged or destroyed by fire or other casualty, Purchaser may either terminate this Contract by written notice to Seller or close. If Purchaser elects to close, despite said damage or destruction, there shall be no reduction in the Purchase Price, and Seller shall assign to Purchaser Seller's right, title and interest in and to all insurance proceeds, if any, resulting or to result from said damage or destruction.

## **ARTICLE VIII.**

### **REPRESENTATIONS**

8.01 As a material inducement to the Seller and Purchaser to execute and perform its obligations under this Contract, the Seller hereby represents and warrants to the Purchaser as of the date of the execution of this Contract, and through the date of the Closing, as follows:



- (a) Seller is the owner in fee simple of the Property;
- (b) To Seller's current actual knowledge, there are no actions, suits, or proceedings (including condemnation) pending or threatened against the Property, at law or in equity or before any federal, state, municipal, or other government agency or instrumentality, domestic or foreign.
- (c) The Property is not in a water district.
- (d) There are no existing or pending litigation, claims, condemnations, or sales in lieu thereof, contracts of sale, options to purchase or rights of first refusal with respect to any aspect of the Property, nor have any such actions, suits, proceedings, claims or other such other matters been threatened or asserted
- (e) Seller has no knowledge of any violation of any ordinance, regulation, law or statute of any government agency or instrumentality pertaining to the Property or any portion thereof which has not been complied with.
- (f) Seller shall not transfer, convey, mortgage, encumber, lease or otherwise assign or dispose of the Property, nor any interest therein, without the express written consent of the Purchaser, nor shall Seller cause, create or allow any lien, claim or encumbrance, of any kind or character, voluntarily or involuntarily, to be placed upon the Property, or any interest therein.
- (g) All requisite resolutions, and any other consents necessary for the consummation by Seller of the transaction contemplated hereby have been duly adopted and obtained, and Seller has full right, power and authority to execute, deliver and carry out the terms and conditions of this Contract and all other documents to be executed and delivered by Seller pursuant to or in connection with this Contract. The execution and delivery of this Contract, the consummation of the transaction herein contemplated in compliance with the terms of this Contract will not conflict with, or with the passage of time result in a breach of any other agreement of Seller or any judgment, order or decree of any court having jurisdiction over Seller or the Property.
- (h) Seller is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code, as Amended, and any applicable regulations promulgated thereunder.
- (i) To the best of Seller's knowledge, the Property is free from and/or has not been used for (i) the storage, holding, existence, manufacture, release, treatment, abatement, removal, disposition, handling, transportation, or disposal of any Hazardous Materials, from, under, into or on the Property or (ii) the existence of any "Endangered Species" on the Property. "Hazardous Materials" shall mean (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any

"hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) ("CERLA"), as amended from time to time, and the regulations promulgated thereunder; (iii) any petroleum-based products; (iv) any substance which by any Governmental Requirements requires special handling or notification of any federal, state or local governmental entity in its collection, storage, treatment, or disposal; and (iv) any other substances which are now classified or considered to be hazardous or toxic under Governmental Requirements. "Endangered Species" shall mean any species which is described pursuant to the U.S. Endangered Species Act of 1973, as being in danger of extinction throughout all or a significant portion of its range.

## **ARTICLE IX.**

### **BREACH BY SELLER**

9.01. In the event Seller shall fail to fully and timely perform any of its obligations hereunder or shall fail to consummate the sale of the Property for any reason, except Purchaser's default, Purchaser may obtain the return of the Escrow Deposit as liquidated damages or pursue specific performance, as its sole and exclusive remedies.

## **ARTICLE X.**

### **BREACH BY PURCHASER**

10.01. In the event Purchaser should fail to consummate the purchase of the Property, the conditions to Purchaser's obligations set forth in this Contract having been satisfied, and Purchaser being in default and Seller not being in default hereunder, Seller may receive the Escrow Deposit as liquidated damages as its sole and exclusive remedy.

## **ARTICLE XI.**

### **MISCELLANEOUS**

### Survival of Covenants

(a) Any of the representations, warranties, covenants and agreements of the parties, as well as any rights and benefits of the parties, shall survive the Closing and shall not be merged therein.

### Notice

(b) Any notice required or permitted to be delivered hereunder shall be deemed received when sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to the Seller or the Purchaser, as the case may be, at the address set forth herein above.

### Texas Law to Apply

(c) This Contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Collin County, Texas.

### Parties Bound

(d) This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Contract.

### Nondisclosure

(e) Neither party shall disclose to any person or entity the terms of this Agreement or the identity of the parties and shall not issue any press or other informational releases without the express written consent of each party.

#### Legal Construction

(f) In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

#### Integration

(g) This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understanding or written or oral agreements between the parties respecting the within subject matter. This Contract cannot be modified or changed except by the written consent of all of the parties.

#### Time of Essence

(h) Time is of the essence of this Contract.

#### Attorney's Fees

(i) Any party to this Contract which is the prevailing party in any legal proceeding against any other party to this Contract brought under or with relation to this Contract or transaction shall be additionally entitled to recover court costs and reasonable attorneys' fees from the non-prevailing party.

#### Gender and Number

(j) Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Memorandum of Contract

(k) Upon the request of either party, both parties shall promptly execute a memorandum of this Contract suitable for filing of record.

Compliance

(l) In accordance with the requirements of Section 28 of the Texas Real Estate License Act, Purchaser is hereby advised that it should be furnished with or obtains a policy of title insurance.

Effective Date of Contract

(m) The term "effective date of this Contract" as used herein shall mean the later of the two (2) dates on which this Contract is fully signed by Seller or Purchaser, as indicated by their signatures below, which later date shall be the date of final execution and agreement by the parties.

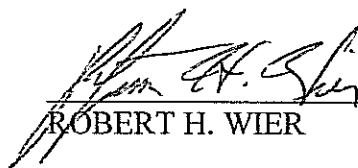
Counterparts/Facsimile

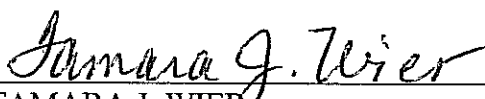
(n) This Agreement may be executed by original or facsimile signatures in multiple counterparts, each of which shall constitute an original and together constitute one and the same instrument.

*(signatures on following page)*

Executed on the dates set forth at the signatures of the parties hereto.

**SELLER:**

  
\_\_\_\_\_  
ROBERT H. WIER

  
\_\_\_\_\_  
TAMARA J. WIER

Date Executed: March 26, 2007

**PURCHASER:**

FRISCO COMMUNITY DEVELOPMENT  
CORPORATION, a municipal corporation organized  
under the laws of the State of Texas

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Date Executed: \_\_\_\_\_

**TITLE COMPANY ACCEPTANCE:**

The Title Company acknowledges receipt of the Earnest Money on \_\_\_\_\_ and  
accepts the Earnest Money subject to the terms and conditions set forth in this Contract.

**TITLE COMPANY:**

LANDAMERICA WILSON TITLE COMPANY

BY: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
1412003904 - 870008.0492

### EXHIBIT A

Being a tract of land situated in the M.E.P. & P.R.R. Company No. 5 Survey, Abstract No. 941, Denton County, Texas, and being part of a 194 acre tract of land as described in deed to Clarence Matthews and wife, Bonnie Matthews, as recorded in Volume 280, Page 478, of the Deed Records of Denton County, Texas, and being that same tract of land described in deed to Donald R. Dix and wife, Marlene P. Dix, as recorded in Volume 871, Page 90, Deed Records, Denton County, Texas, and being more particularly described as follows:

BEGINNING at a found ½ inch rod at the Northeast corner of the said Matthews 194 acre tract;

THENCE S 0° 52' 20" W, 442.51 feet to a found ½ inch iron rod at the northeast corner of a tract of land described in deed to Electronic Data Systems Corporation Retirement Plan and Trust, as recorded in Volume 1745, Page 608, Deed Records, Denton County, Texas;

THENCE N 88° 35' 25" W, along a north line of said Electronic Data Systems tract, 492.88 feet to a found ½ inch iron rod at the southeast corner of a tract of land as described in deed to Horace Ainsworth as recorded in Volume 634, Page 277, Deed Records, Denton County, Texas, said point bears S 88° 35' 25" E, 492.79 feet from the southwest corner of said Ainsworth tract;

THENCE N 0° 52' 20" E, departing the north line of said Electronic Data Systems tract and along the east line of said Ainsworth tract, 442.51 feet to a ½ inch iron rod at the northeast corner of said Ainsworth tract, said point bears S 88° 35' 25" E, 492.27 feet from the northwest corner of said Ainsworth tract;

THENCE S 88° 35' 25" E, 492.88 feet to the POINT OF BEGINNING and containing 218,094 square feet or 5.007 acres of land, more or less.